

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE**

JONES et al.,

Plaintiffs,

v.

VARISITY BRANDS, LLC et al.,

Defendants.

**Civ. Action No. 2:20-cv-02892**

**DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants hereby provide the Court with notice of yesterday's decisions of the United States District Court for the District of Columbia in *New York v. Facebook, Inc.*, No. 20-cv-03589 (D.D.C. June 28, 2021). In *Facebook*, the plaintiffs sought to allege a violation of Section 2 of the Sherman Act based on acquisitions and other conduct. The Court dismissed the case in its entirety under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

As to the acquisitions, the Court held that the doctrine of laches barred claims based on acquisitions made more than four years before the case was filed because such claims would likewise be barred under the statute of limitations. *Id.* (slip op. at 43). The Court also held that conduct that is not anticompetitive as a matter of law cannot provide the basis for a claim under Section 2 when combined with such out-of-period acquisitions on a "course of conduct" or "monopoly broth" theory. *Id.* (slip op. at 61-62).

In short, the Court rejected the very arguments on which Plaintiffs primarily rely (*see* ECF 68 at 11-13, 18) and dismissed the case in its entirety, as should happen here.

June 29, 2021

Respectfully submitted,

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